

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 03-15357

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
April 29, 2005
THOMAS K. KAHN
CLERK

D. C. Docket No. 02-60403 CV-DLG

MICHAEL A. PUSKAC,

Petitioner-Appellant,

versus

SECRETARY FOR THE DEPARTMENT OF CORRECTIONS,
James Crosby,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(April 29, 2005)

Before BLACK, MARCUS and FAY, Circuit Judges.

PER CURIAM:

Petitioner Michael Puskac is a state prisoner who is currently incarcerated for grand theft. He was initially convicted of both burglary and grand theft, however his burglary charge has been dismissed. Pursuant to 28 U.S.C. § 2254, Puskac filed a petition for habeas corpus in federal district court. Puskac argued, *inter alia*, that his counsel was constitutionally deficient.

The district court denied relief and granted a certificate of appealability (COA) on the following ineffective-assistance-of-counsel claims: (1) failure to adequately move for judgment of acquittal; (2) failure to investigate the value of the stolen items; (3) failure to object to the jury instruction concerning the burglary charge; and (4) failure to file a motion to recuse and/or petition for writ of mandamus when a continuance was denied. Puskac moved to expand the COA, and this Court granted the motion on the following issue only: “Whether the district court erred in denying as a state law issue not cognizable in a 28 U.S.C. § 2254 petition appellant’s claim that ‘[h]e received an illegal sentence when the court dismissed the burglary charge, because nothing was left to support the charge of grand theft.’” We have reviewed the record and the arguments, and we conclude the district court did not err in denying Puskac’s federal habeas petition.

AFFIRMED.